

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
VERITAS GEOPHYSICAL SERVICES, LLC)	File No. 0002940104
)	
Application for Modification of the License for)	
Station KNNS699 and Request for Waiver of)	
Section 90.259(a) of the Commission's Rules)	

ORDER

Adopted: October 18, 2007

Released: October 19, 2007

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* We have before us the above-captioned application and associated request for waiver filed by Veritas Geophysical Services ("Veritas") on March 8, 2007 and supplemented on July 27, 2007.¹ Veritas seeks to add a frequency pair to the license for its grandfathered 216-220 MHz band wide-area telemetry station, and seeks a waiver to permit operation on that frequency pair with higher power and wider bandwidth than authorized by Section 90.259(a) of the Commission's Rules.² For the reasons set forth below, we dismiss the application as defective, and dismiss the waiver request as moot.

2. *Background.* For over ten years, Veritas has been authorized under Call Sign KNNS699 to conduct telemetry operations anywhere in the United States on four 216-217 MHz frequencies³ pursuant to Section 90.259, which authorizes telemetry use of the 216-220 MHz band on a secondary basis to the fixed and mobile services.⁴ Veritas's mobile units are authorized for one watt of output power. It uses the facilities in association with geophysical exploration for petroleum products.⁵

3. In 2002, the Commission reaffirmed the secondary status of telemetry operations in the 216-220 MHz band.⁶ In addition, the Commission amended the rules to prohibit the future licensing of secondary telemetry operations in the band over a wide area, and instead to require applicants to specify their area of normal day-to-day operations in terms of a maximum distance from a geographical center.⁷

¹ FCC File No. 0002940104 (Application), Exhibit A – Modification Clarification (filed Mar. 8, 2007) (Modification Clarification), Exhibit B – Request for Waiver of 47 C.F.R. § 90.259(a) (filed Mar. 8, 2007) (Waiver Request), Exhibit Re: Power Output (filed July 27, 2007) (Supplement).

² 47 C.F.R. § 90.259(a).

³ Specifically, 216.275 MHz, 216.325 MHz, 217.625 MHz, and 217.725 MHz.

⁴ See 47 C.F.R. § 90.259(a)(2).

⁵ Modification Clarification at 1.

⁶ See Reallocation of the 216-220 MHz, 1390-1392 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands, ET Docket No. 00-221, *Report and Order and Memorandum Opinion and Order*, 17 FCC Rcd 368, 383 ¶ 33 (2002). That decision also prohibited new assignments in the 216-217 MHz band in order to protect the Low Power Radio Service (LPRS), but grandfathered incumbent telemetry licensees on the condition that they not cause interference to LPRS operations. See *id.* at 380 ¶ 26.

⁷ See Amendments to Parts, 1, 2, 27 and 90 of the Commission's Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz

It stated that grandfathered licensees in the 217-220 MHz band could add new transmitters “so long as no harmful interference is caused to primary licensees.”⁸ The Commission also decided to require frequency coordination for any application proposing new or modified telemetry operations, including geophysical telemetry operations.⁹

4. Also in 2002, the Commission adopted a geographic licensing scheme for Automated Maritime Telecommunications System (AMTS) stations, which operate in the 217/219 MHz portion of the 216-220 MHz band.¹⁰ AMTS geographic licenses were assigned pursuant to auctions conducted in 2004 and 2005.¹¹

5. On March 8, 2007, Veritas filed the above-captioned application to modify its license for Station KNNS699. It seeks authority to add temporary base stations and mobile units operating on frequencies 217.000 MHz and 219.000 MHz with an output power of six watts and a bandwidth of up to 800 kilohertz.¹² Accordingly, Veritas seeks a waiver of Section 90.259(a)(4),¹³ which limits maximum transmitter output power to two watts, and proffers justification, as required by Section 90.259(a)(7),¹⁴ for a channel bandwidth exceeding fifty kilohertz.¹⁵ The basis for Veritas’s request is that these are the technical parameters of the SERCEL, Inc. (SERCEL) equipment that it proposes to use, and the Commission already has approved the equipment and concluded that it poses no risk of interference to other licensees.¹⁶ Finally, Veritas argues that the application does not require frequency coordination, pursuant to the Commission’s decision to permit grandfathered licensees to add transmitters.¹⁷

6. *Discussion.* As noted above, when the Commission amended Section 90.259 in 2002, it provided that applicants must specify an area of operations, and that applications for new and modified 217-220 MHz secondary telemetry licenses would require frequency coordination, with no express exception for the addition of transmitters by grandfathered licensees.¹⁸ Elsewhere in the order, however,

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Government Transfer Bands, *Report and Order*, WT Docket No. 02-8, 17 FCC Rcd 9980, 10000 ¶ 45 (2002) (27 MHz *Report and Order*); *see also* 47 C.F.R. § 90.259(a)(6) (“Wide area operations will not be authorized. The area of normal day-to-day operations will be described in the application in terms of maximum distance from a geographical center (latitude and longitude).”).

⁸ *See 27 MHz Report and Order*, 17 FCC Rcd at 10003 ¶ 53.

⁹ *See id.* at 10016 ¶¶ 90-91.

¹⁰ *See* Amendment of the Commission’s Rules Concerning Maritime Communications, *Second Memorandum Opinion and Order and Fifth Report and Order*, PR Docket No. 92-257, 17 FCC Rcd 6685, 6686 ¶ 2 (2002).

¹¹ *See* Auction of Automated Maritime Telecommunications System Licenses Closes: Winning Bidders Announced for Auction No. 61, *Public Notice*, 20 FCC Rcd 13747 (WTB 2005); Automated Maritime Telecommunications System Spectrum Auction Closes, *Public Notice*, 19 FCC Rcd 18252 (WTB 2004).

¹² *See* Application. Veritas states that it will operate the additional units “exclusively in isolated rural inland areas, primarily in close proximity to oil and gas fields in the southern and Rocky Mountain states,” *see* Modification Clarification at 1, but the Application itself does not propose such a limitation, *see* Application at Schedule D, Item 24 (requesting a nationwide operating area).

¹³ 47 C.F.R. § 90.259(a)(4).

¹⁴ 47 C.F.R. § 90.259(a)(7).

¹⁵ *See* Waiver Request at 1.

¹⁶ *Id.*

¹⁷ *See* Modification Clarification at 1.

¹⁸ *See 27 MHz Report and Order*, 17 FCC Rcd at 10000 ¶ 45, 10016 ¶¶ 90-91.

it stated that grandfathered 217-220 MHz secondary telemetry licensees would be permitted to add transmitters, and the only condition it mentioned was that they not interfere with primary licensees.¹⁹ Thus, it is not entirely clear whether the Commission intended to require frequency coordination when a grandfathered wide-area 217-220 MHz secondary telemetry licensee adds transmitters. Given that wide-area licenses do not contain coordinate information, and frequency coordination without coordinate information is of little value,²⁰ there may be merit to Veritas's contention that the Commission did not intend to require frequency coordination in such cases.²¹

7. We need not resolve the issue, however, because the exception from the frequency coordination requirement, assuming *arguendo* that there is one, is very narrow, and applies only when a grandfathered licensee seeks to change nothing other than the number of authorized transmitters. In the present matter, Veritas also seeks substantial changes to its authorized technical parameters: it seeks to operate on additional frequencies with increased power and a wider bandwidth. Under these circumstances, frequency coordination clearly is required. We therefore shall dismiss the application as defective. If Veritas wishes to modify its license to add transmitters operating on different frequencies or with different technical parameters from its current equipment, it must specify its area(s) of operation and provide evidence of frequency coordination.

8. Veritas argues that the application should nonetheless be granted because the SERCEL equipment "does not present a heightened interference risk to other authorized users in the 217-218 MHz and 219-220 MHz bands relative to other Part 90 geophysical telemetry devices" due to the reduced spectral density that results from the wider bandwidth.²² This argument is not persuasive. First, it does not address the fact that Veritas seeks to add new frequencies to its license.²³ The potential for interference on the added frequencies indisputably would be increased. Moreover, the issue is not whether the SERCEL equipment poses a heightened interference risk relative to "other Part 90 geophysical telemetry devices." "[O]ther Part 90 geophysical telemetry devices" require frequency coordination and specified areas of operation in order to be licensed, but Veritas seeks a wide-area authorization without frequency coordination. Thus, the issue is not how the SERCEL equipment compares with site-licensed geophysical telemetry devices operating with two watts output power; rather, the relevant comparison is between the six-watt SERCEL equipment and the one-watt mobile units authorized by Veritas's grandfathered license. Veritas does not indicate whether the SERCEL mobile units are less likely than its current equipment to cause interference.

9. In light of our conclusion that the application requires frequency coordination, we conclude that it would be premature to address the issue of whether Veritas has made an adequate showing to justify granting its request to operate with six watts output power and up to 800 kilohertz bandwidth. The operating area and other information obtained as a consequence of the frequency

¹⁹ *Id.* at 10003 ¶ 53.

²⁰ See Amendment of Part 90 of the Commission's Rules and Policies for Applications and Licensing of Low Power Operations in the Private Land Mobile Radio 450-470 MHz Band, *Report and Order*, WT Docket No. 01-146, 18 FCC Rcd 3948, 3956 ¶ 17, 3965 ¶ 39 (2003); Amendment of the Commission's Rules with Regard to the 3650-3700 MHz Government Transfer Band, *First Report and Order and Second Notice of Proposed Rule Making*, ET Docket No. 98-237, 15 FCC Rcd 20488, 20531 ¶ 108 (2000).

²¹ See Modification Clarification at 1.

²² See Supplement at 1.

²³ Veritas also fails to address the fact that its proposed operations on frequency 217.000 MHz would result in emissions in the 216-217 MHz band. As noted above, new assignments in the 216-217 MHz band are prohibited in order to protect the LPRS. See 47 C.F.R. § 90.259(a)(3) and *supra* note 6. For that reason, frequency 217.000 MHz is not an assignable frequency for telemetry operations. See 47 C.F.R. § 90.259(a)(8).

coordination process would be relevant to whether to grant the requested technical parameters.²⁴

10. *Conclusion.* In summary, even if grandfathered wide-area licensees adding transmitters are exempt from the frequency coordination requirement for applications to modify 217-220 MHz secondary telemetry licenses, the instant application does not fall within the exemption because it also proposes substantial changes in Veritas's operating parameters. Because the application fails for lack of frequency coordination, we need not address Veritas's request to be authorized for maximum transmitter output power and channel bandwidth limits beyond those set forth in Section 90.259(a). If Veritas wishes to pursue adding the transmitters described in its waiver request, it must first specify its area(s) of operation and obtain frequency coordination. At that time, we would consider whether a waiver of Section 90.259(a) would be appropriate.

11. Accordingly, IT IS ORDERED pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.934 of the Commission's Rules, 47 C.F.R. § 1.934, that application FCC No. 0002940104 filed by Veritas Geophysical Services, LLC on March 8, 2007 SHALL BE DISMISSED, and the associated waiver request IS DISMISSED AS MOOT.

12. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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²⁴ Nonetheless, we reject Veritas's argument that the Commission implicitly waived the power and bandwidth limitations in Section 90.259 when it authorized the SERCEL equipment. *See* Waiver Request at 1. The grant of an equipment authorization application does not guarantee that all potential licensees will be able to obtain a license to operate the device. *See* Lawrence J. Movshin, Esq., *Letter*, 22 FCC Rcd 3821, 3822 (WTB MD 2007). Moreover, we note that the base station equipment identified by Veritas (Grant of Equipment Authorization KQ9LRU) was approved before the rule was amended to add the current power and bandwidth limits, and that the related mobile units (Grant of Equipment Authorization KQ9LAUR) were approved for a maximum transmitter output power of two watts, rather than the six watts Veritas is seeking here.